



MEMORANDUM

TO: Peter Mlynarik, Chair, and
Members of the Board

DATE: November 14, 2017

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Adopted Regulations Project –
Packaging and Labeling
(JU2016200610)

The board adopted a packaging and labeling regulations change in July. This change added the word “perishable” to 3 AAC 306.310(a)(6) so that the requirement states that a licensed retail store may not sell marijuana or marijuana product, “[a]fter the expiration date shown on the label of a perishable product.”

The Department of Law has raised concerns with this regulation. They note that the regulations don’t have a definition of “perishable product.” There is no clear guidance in the regulations about what forms of marijuana products are perishable and which products should have expiration dates. Additionally, the concept of an expiration date would now seem to be limited to a marijuana product, excluding bud and flower which have esters that can go stale. Could bud and flower, in a pre-rolled joint for instance, be given an expiration date? If so, could it be sold after that expiration date? This amendment creates all these questions that have no answers. Without the amendment, all forms of marijuana with an expiration date are covered, although the board could stand to clarify when an expiration date is necessary or required.

The Department of Law recommends that the board reconsider and withdraw this proposed regulations change.

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.310 is amended to read:

3 AAC 306.310. **Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or a marijuana product

- (1) To a person under 21 years of age;
- (2) To a person that is under the influence of an alcoholic beverage, inhalant, or controlled substance;
- (3) That is not labeled and packaged as required in 3 AAC 306.345 and
 - (A) 3 AAC 306.470 and 3 AAC 306.475; or
 - (B) 3 AAC 306.565 and 3 AAC 306.570;
- (4) In a quantity exceeding the limit set out in 3 AAC 306.355;
- (5) Over the Internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;
- (6) After the expiration date shown on the label of **a perishable** [THE MARIJUANA OR] product (Eff. 2/21/2016, Register 217; am __/__/____, Register____)

Authority:	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS17.38.070	AS 17.38.190	AS 17.38.900
	AS17.38.121		